

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**MICHAEL BOYD, PAUL LEE, and** )  
**KENDRICK PEARSON, and J.B.** )  
**WASHUP** *on behalf of themselves and all* )  
*others similarly situated,* )  
**Plaintiff,** ) **Case No. 12-cv-704-MJR-RJD**  
**vs.** )  
**S.A. GODINEZ and RANDY DAVIS,** )  
**Defendants.** )

## MEMORANDUM AND ORDER

**REAGAN, Chief District Judge:**

On June 13, 2012, Plaintiffs Michael Boyd, Paul Lee, and Kendrick Pearson, inmates at Vienna Correctional Center, filed suit against Defendants S.A. Godinez and Randy Davis. Plaintiffs sought injunctive and declaratory relief to correct living conditions at Vienna that they described as squalid, overcrowded, inhumane, and unfit for human habitation. In August 2013, Plaintiffs filed an unopposed motion to certify a class for settlement purposes. On October 29, 2013, Plaintiffs filed an amended complaint adding Plaintiff J.B. Washup as a class representative. District Judge J. Phil Gilbert certified a class for settlement purposes on October 31, 2013. The parties engaged in protracted settlement negotiations that deadlocked without a resolution in 2016. In May 2016, the parties filed a joint status report requesting that the Court set a

new scheduling order and trial date. Judge Gilbert re-set the case for trial, but the case was transferred to the undersigned in August 2016.

On December 9, 2016, Plaintiffs filed a voluntary motion to dismiss this action in its entirety. According to the motion, the Illinois Department of Corrections made significant improvements to the living conditions at Vienna that resolved the unconstitutional conditions. Class counsel toured parts of Vienna at issue in this action and observed the improvements. After a limited deposition of Michael P. Atchison, Chief of Operations for IDOC, and the tour of Vienna, Plaintiffs moved to dismiss their claims without prejudice.

On January 13, 2017, Magistrate Judge Reona J. Daly ordered that notice of the dismissal be provided to the settlement class no later than January 30, 2017. The notice informed class members that they could file objections or comments on or before March 1, 2017. No objections or comments were filed. On March 28, 2017, Magistrate Judge Daly held a fairness hearing on the motion for voluntary dismissal.

On August 16, 2017, pursuant to 28 U.S.C. 636(b), Magistrate Judge Daly submitted a detailed Report & Recommendations (Doc. 126) to the undersigned District Judge. According to the Report, the plaintiffs' proposal to dismiss their claims without prejudice satisfies the requirements of Federal Rule of Civil Procedure 23(e), which governs dismissals of class actions once a class is certified. Notice was provided as required, and Judge Daly found that dismissal of this action without prejudice is a fair,

reasonable, and adequate resolution at this juncture. The Report recommends that the undersigned grant Defendants' motion for voluntary dismissal.

The docket entry associated with the Report and Recommendations clearly states that any objections to Judge Daly's recommendation were due by September 5, 2017. No objections were filed by that deadline, nor did either party move for additional time to file objections. Accordingly, this Court need not conduct a *de novo* review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified findings or recommendations to which objection is made."); Fed. R. Civ. P. 72(b)(3) ("The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions").

Accordingly, the Court **ADOPTS** in its entirety Magistrate Judge Daly's Report and Recommendations (Doc. 126) and **GRANTS** Plaintiffs' motion for voluntary dismissal (Doc. 114). All claims are **DISMISSED without prejudice**. As no claims remain pending, the Clerk is directed to close this case.

**IT IS SO ORDERED.**

DATED: September 7, 2017

*s/Michael J. Reagan*  
MICHAEL J. REAGAN  
Chief Judge  
United States District Court